

Appln No. 10/649,874
Amdt date December 2, 2008
Reply to Office action of August 6, 2008

REMARKS/ARGUMENTS

Claims 1-18 and 32-43 are pending in the application, of which claims 1, 3-4, 8-9, 13, 17, 36, and 42 are independent. Applicant acknowledges with thanks the allowance of claims 3-4, 8-10, 17-18, 36-37, and 42-43. Claims 1-2, 13, 32, and 34 are amended herein. Claim 34 is amended to correct a clerical error in claim dependency. The Applicant respectfully requests reconsideration and allowance of claims 1-2, 5-7, 11-16, 32-35, and 38-41 in addition to maintaining the allowance of claims 3-4, 8-10, 17-18, 36-37, and 42-43.

I. Examiner Interview on November 14, 2008

The Applicant thanks the Examiner for the time and courtesy extended to the Applicant's attorney during the telephone interview of November 14, 2008. During the telephone interview, no agreement has been reached as to the allowance of any claims. The Examiner suggested adding limitations to clearly define claims over U.S. Patent No. 7,157,638. The Applicant's attorney has amended claims herein in accordance with the discussions during the telephone interview in view of the suggestions made by the Examiner.

II. 35 U.S.C. § 102(e) Rejection of Claims 1-2, 5-7, 11-16, 32-35, and 38-41

Claims 1-2, 5-7, 11-16, 32-35 and 38-41 are rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Sitrick (U.S. Patent No. 7,157,638, hereinafter "Sitrick I").

The Applicant respectfully traverses as follows.

Claims 1 and 13

Independent claims 1 and 13 are amended to recite in relevant part, "[a] musical performance self-training apparatus for supporting a player by displaying a performance instruction information on a display means, wherein the display means is further adapted to display music to be performed that is divided timewise into contiguous units, each unit including a predetermined size of musical tone information of the music to be performed, the apparatus

comprising: a unit designating means for designating at least one unit from the timewise contiguous units" (emphasis added).

The abstract of Sitrick I cited in the Office Action recites:

The musical composition data can be transposed via a controller, and can be transmitted to a plurality of the individual workstations that then display the musical composition. In one embodiment, a display system for use by a plurality of users provides a plurality of display presentations of a selected musical composition. The system is comprised of a plurality of individual workstations, each workstation comprising a communication interface providing for communications with the respective workstation of music data representative of the selected musical composition, memory for locally storing the data responsive to the communications interface, and a display apparatus provides a local visual display presentation representative of the selected musical composition responsive to the stored data. The system further provides for synchronizing the presentation on the plurality of local visual display presentations of the selected musical composition.

Here, Sitrick I appears to divide the music by musical performer or instrument, each workstation receiving the respective music for a particular performer or instrument (see, e.g., figure 3). According to the claimed embodiment of the present application, however, music to be performed is divided timewise into contiguous units.

In addition, Sitrick I appears to divide the music into parts that are intended to be performed concurrently (as in an ensemble), while the claimed embodiment of the present application divides the music into timewise contiguous units. In other words, the music is divided into contiguous portions that are intended to be performed sequentially (one after another, as by a solo performer). Sitrick I does not appear to disclose any notion of "contiguousness" between different units. That is, there appears to be no natural order to the division of music under Sitrick I; rather it is by individual instrument or performer of a whole (e.g., the viola score to an orchestral work, or the trumpet part of a band piece).

Because Sitrick I does not disclose either the concept of timewise division or contiguous units, Sitrick I does not disclose or even suggest at least "[a] musical performance self-training apparatus for supporting a player by displaying a performance instruction information on a display means, wherein the display means is further adapted to display music to be performed that is divided timewise into contiguous units, each unit including a predetermined size of

Appln No. 10/649,874
Amdt date December 2, 2008
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musical tone information of the music to be performed, the apparatus comprising: a unit designating means for designating at least one unit from the timewise contiguous units” of claims 1 and 13.

For anticipation rejection, the cited reference must disclose every element of the claim(s) being rejected. Since Sitrick I does not teach or even suggest at least one element of claims 1 and 13, claims 1 and 13 are not anticipated by Sitrick I. Accordingly, the Applicant respectfully requests that the § 102(e) rejection of claims 1 and 13 be withdrawn and that these claims be allowed.

Claims 2 and 32

Claims 2 and 32 now recite in relevant part, “a lesson menu generating means for generating an image information of a lesson menu which has a score of the music to be played and the timewise contiguous units corresponding to the score, then output the image information to the display means” (emphasis added).

In rejecting these claims, the Examiner cites a number of other sections of Sitrick I (i.e., column 19, lines 3–6, 16–24; column 19, line 63 to column 20, line 7; column 26, line 26 to column 27, line 41). However, these sections also appear to be directed to a division of music by musical performer or instrument, where the individual performer and his/her corresponding music is being synchronized with an entire group or a separate conductor.

By way of example, the columns 26–27 cited in the Office Action, along with their corresponding figures 16–17, are about the implementation details of synchronizing the individual performers of an ensemble via a master workstation. This is a division of music by musical performer or instrument into units that are intended to be performed concurrently, where the primary goal appears to be the synchronization of the different parts, and not “for generating an image information of a lesson menu which has a score of the music to be played and the timewise contiguous units corresponding to the score, then output the image information to the display means” as in claims 2 and 32 of the present application.

Appln No. 10/649,874
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Therefore, Sitrick I does not disclose at least one limitation of claims 2 and 32. In addition, claims 2 and 32 depend from claims 1 and 13, respectively, such that they each incorporate all the terms and limitations of claims 1 and 13, respectively, in addition to other limitations, which together further patentably distinguish claims 2 and 32 over the cited references. As such, the Applicant respectfully requests that the § 102(e) rejection of claims 2 and 32 be withdrawn and that these claims be allowed.

Claims 5–7 and 12

Claims 5–7 and 12 depend from claim 2, such that they each incorporate all the terms and limitations of claim 2 in addition to other limitations, which together further patentably distinguish claims 5–7 and 12 over the cited references. Therefore, the Applicant respectfully requests that the § 102(e) rejection of claims 5–7 and 12 be withdrawn and that these claims be allowed.

Claim 11

Claim 11 depends from claim 1, such that it incorporates all the terms and limitations of claim 1 in addition to other limitations, which further distinguish claim 11 over the cited references. Therefore, the Applicant respectfully requests that the § 102(e) rejection of claim 11 be withdrawn and that claim 11 be allowed.

Claims 14–16

Claims 14–16 depend directly or indirectly from claim 13, such that they each incorporate all the terms and limitations of claim 13 in addition to other limitations, which together further patentably distinguish claims 14–16 over the cited references. Therefore, the Applicant respectfully requests that the § 102(e) rejection of claims 14–16 be withdrawn and that these claims be allowed.

Appln No. 10/649,874
Amdt date December 2, 2008
Reply to Office action of August 6, 2008

Claims 33–35 and 38–41

Claims 33–35 and 38–41 depend directly or indirectly from claim 32, such that they each incorporate all the terms and limitations of claim 32 in addition to other limitations, which together further patentably distinguish claims 33–35 and 38–41 over the cited references. Therefore, the Applicant respectfully requests that the § 102(e) rejection of claims 33–35 and 38–41 be withdrawn and that these claims be allowed.

III. Alleged Rejection of Claims over Sitrick 7,074,999, figures 5–6 and 24–25

During the November 14, 2008 interview, the Examiner pointed out a possible rejection over a different Sitrick patent, U.S. Patent No. 7,074,999 (hereinafter referred to as “Sitrick II”). The Applicant notes that this patent includes substantially the same subject matter as U.S. Patent Application Publication No. 2003/0110926 (which is the pre-grant publication of Sitrick II), which the Examiner refers to in the November 21, 2008 Interview Summary.

During the telephone interview, the Examiner brought figures 5–6 and 24–25 of Sitrick II to the attention of the Applicant's attorney. Upon further review of Sitrick II, the Applicant noticed that Sitrick II does not appear to be proper prior art. The filing date of Sitrick II is January 29, 2003, which is after the earliest priority date claimed by the present application. By way of example, the Applicant submitted verified English translations of Japanese Patent Application No. 2002–273311 filed on September 17, 2002 and Japanese Patent Application No. 2002–273311 filed on September 19, 2002 together with the Office Action response mailed September 12, 2007.

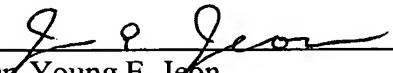
Sitrick II is a continuation-in-part (CIP) of Application No. 09/492,218, filed on January 27, 2000, now Patent No. 7,157,638, that is, Sitrick I discussed above. Applicant notes that figures 5–6 and 24–25 of Sitrick II are not found in Sitrick I. Therefore, these figures cannot claim priority of Sitrick I as they were not disclosed in Sitrick I. Because Sitrick II, figures 5–6 and 24–25 cannot claim an earlier priority date than its filing date of January 29, 2003, this reference does not appear to be proper prior art for the present application, which claims priority of Japanese applications filed in September 2002.

Appln No. 10/649,874
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IV. Concluding Remarks

In view of the foregoing amendments and remarks, the Applicant respectfully submits that claims 1-18 and 32-43 are in condition for allowance, and a timely Notice of Allowance is earnestly solicited. If there are any remaining issues that can be addressed over the telephone, the Examiner is cordially invited to call the Applicant's attorney at the number listed below.

Respectfully submitted,
CHRISTIE, PARKER & HALE, LLP

By 
Jun-Young E. Jeon
Reg. No. 43,693
626/795-9900

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